

Effective 3/28/2016

63G-6a-303 Duties and authority of chief procurement officer.

- (1) The chief procurement officer:
 - (a) is the director of the division;
 - (b) serves as the central procurement officer of the state;
 - (c) serves as a voting member of the board; and
 - (d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement unit without independent procurement authority or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.
- (2) Except as otherwise provided in this chapter, the chief procurement officer shall:
 - (a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;
 - (b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;
 - (c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;
 - (d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;
 - (e) manage the division's electronic procurement system;
 - (f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;
 - (g) make procurement training available to procurement units and persons who do business with procurement units;
 - (h) provide exemplary customer service and continually improve the division's procurement operations; and
 - (i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter.
- (3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:
 - (a) shall:
 - (i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;
 - (ii) prepare and issue standard specifications for procurement items;
 - (iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;
 - (iv) in accordance with Section 63F-1-205, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement of information technology services by an executive branch procurement unit;
 - (v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;
 - (vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:
 - (A) the contract is out of compliance with this chapter or a board rule; and

- (B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and
- (vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and
- (b) may:
 - (i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;
 - (ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;
 - (iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;
 - (iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(2), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and
 - (v) remove an individual from the procurement process or contract administration for:
 - (A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;
 - (B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;
 - (C) making an inconsistent or unexplainable score for a solicitation response;
 - (D) having inappropriate contact or communication with a person responding to a solicitation;
 - (E) socializing inappropriately with a person responding to a solicitation or with a contractor;
 - (F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or
 - (G) any other violation of a law, rule, or policy.
- (4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).
- (5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.
- (6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit without independent procurement authority to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Repealed and Re-enacted by Chapter 355, 2016 General Session